

REMARKS

The final Office Action mailed December 1, 2007, has been carefully reviewed and these remarks are responsive thereto. No claims have been canceled, claims 14 and 22 have been amended, and new claims 27-29 have been added. No new matter has been introduced. Claims 14, 16-23, 25, and 26-29 remain pending in this application. Reconsideration and allowance of the instant application are respectfully requested.

Preliminarily, Applicants note that the Office Action did not acknowledge the claims for priority in the instant application. This application claims domestic priority to PCT Application PCT/FR01/00194 filed January 19, 2001, and foreign priority to French Patent Application 00/00684 filed January 20, 2000. Applicants respectfully request that subsequent Office Actions issued for the instant application acknowledge these priority claims. Applicants further note that the official filing receipt for the instant application contains an error, and have filed concurrently herewith a Request for Corrected Filing Receipt to correct the foreign priority date recorded on the official filing receipt.

Rejections under 35 U.S.C. § 103

Claims 14, 16-17, 21-23, and 25-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,889,198 (*Kawan*), in view of U.S. Patent No. 6,293,865 (*Kelly*). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claims 14 and 22 have been amended to recite displaying merchant loyalty program data “corresponding to at least two types of bonus counters taken among frequency of visits, recency of visits, cumulative amount spent, and promotion points.” Neither *Kawan* nor *Kelly* teaches this additional feature. *Kawan* attempts to address a need “for an off-line loyalty program, or a loyalty program which performs loyalty updates as an automatic function of the smart card itself at the merchant terminal, including tracking and redeeming of smart card loyalty points.” (*Kawan*, col. 1, lines 48-52)(Emphasis added). The Office Action correctly notes on page 3 that *Kawan* does not disclose displaying information in the form of a graded scale. However, *Kawan* also fails to teach or suggest displaying merchant loyalty data corresponding to at least two types of bonus counters taken among frequency of visits, recency of visits, cumulative amount spent, and promotion points, as recited in amended claims 14 and 22.

Although *Kawan* refers to loyalty points, it does not teach or suggest bonuses based on frequency, recency, or amount spent.

Kelly shows a scale with points ('Score Table' 1308 in FIG. 13), but similarly fails to teach or suggest displaying a graduated scale based on "at least two types of bonus," including frequency, recency, or amount spent, as recited in claims 14 and 22. Therefore, since neither *Kawan* nor *Kelly* discloses displaying merchant loyalty program data for a user, "said data corresponding to at least two types of bonus counters taken among frequency of visits, recency of visits, cumulative amount spent, and promotion points," Applicants submit that amended claims 14 and 22 are not obvious over the alleged combination of *Kawan* and *Kelly*. Claims 16-17, 21, 23, and 25-26 depend either from claim 14 or 22, and are therefore not obvious over *Kawan* and *Kelly* for at least the same reasons as their respective base claims, as well as based on the additional features recited therein.

Claims 14 and 22 have been further amended to recite displaying, "a graduated scale directly showing graphically the state of fulfillment of a bonus from zero to completion." *Kawan* does not disclose displaying information in a graduated scale. (Office Action, page 3) *Kelly* shows a point scale ('Score Table' 1308 in FIG. 13), but does not disclose a scale that shows "graphically the state of fulfillment of a bonus from zero to completion," as recited in claims 14 and 22. Thus, amended claims 14 and 22, and their respective dependent claims 16-17, 21, 23, and 25-26, are not obvious over *Kawan* and *Kelly* for this additional reason.

With respect to claims 16 and 25, which recite dynamically updating the data in the graduated scale, the Office Action states, "Examiner considers the entirety of [Kelly's] Figure 13 to be a graduated scale, and thus the amount of prize bucks in Reference 1306 is considered to be part of the graduated scale. Since the prize bucks are inherently updated dynamically, the graduated scale is updated." (Emphasis in Office Action). Applicants disagree with this improper characterization of *Kelly*. *Kelly* does not teach a graduated scale that is dynamically updated. Figure 13 of *Kelly* is not a graduated scale as argued by the Examiner; it is a game user interface that contains a graduated scale (Score Table 1308) and other user interface components that are dynamically updated (Prize Bucks point counter 1306, credits counter 1304). However, the occurrence of these different components within the same game user interface does not mean that *Kelly* teaches a dynamically updated graduated scale as argued by the Examiner.

Accordingly, Applicants submit that dependent claims 16 and 25 are not obvious over the cited references for this additional reason.

Furthermore, assuming *arguendo* that the combined disclosures of *Kawan* and *Kelly* teach all of the features in the recited claims, the Office Action has failed to identify a reason why a person skilled in the art would combine *Kawan*, a system for tracking and updating loyalty points, with *Kelly*, which relates to a tournament network gaming system and has nothing to do with merchant loyalty programs. The Office Action states on page 3 that it would have been obvious to combine the features from *Kawan* and *Kelly* in order to “give the consumer a better impression of how many award points they have and what prizes those points could be redeemed for.” This is not a reason to combine references, however, but rather is the conclusion the Examiner has apparently reached after having benefited from reading Applicants’ own disclosure, and thus represents impermissible hindsight.

Claims 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kawan* in view of *Kelly*, and further in view of U.S. Patent No. 5,943,624 (*Fox*). However, since *Fox* does not teach or suggest displaying merchant loyalty program data “corresponding to at least two types of bonus counters taken among frequency of visits, recency of visits, cumulative amount spent, and promotion points,” or displaying “a graduated scale directly showing graphically the state of fulfillment of the bonus from zero to completion,” as recited in amended claims 14 and 22, *Fox* thus fails to overcome the above-discussed deficiencies of *Kawan* and *Kelly*. Therefore, claims 18-20 are allowable over *Kawan*, *Kelly*, *Fox*, and their proposed combination for at least the same reasons as their respective base claims, as well as based on the additional features recited therein.

New Claims

Applicants have added new claims 27-29 to clarify and more fully claim their invention. Claims 27 and 28 depend respectively from claims 14 and 22, and further recite, “dynamically updating the graduated scale based on the data from the behavior files and based on data corresponding to at least one loyalty program.” As discussed above with respect to claims 16 and 25, neither *Kawan* nor *Kelly* teaches or suggests dynamically updating a graduated scale. Thus, new claims 27-28 are allowable for at least this additional reason.

New independent claim 29 recites an apparatus comprising a display, processor, and a memory storing computer executable instructions that cause the apparatus to perform a method comprising displaying merchant loyalty program data “corresponding to at least two types of bonus counters taken among frequency of visits, recency of visits, cumulative amount spent, and promotion points,” and displaying “a graduated scale directly showing graphically the state of fulfillment of the bonus from zero to completion.” Therefore, new claim 29 is allowable over the cited references for at least the same reasons discussed above regarding claims 14 and 22.

Conclusion

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

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